

DEC 12 2005

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHN DAVID HUNTLEY,

Defendant - Appellant.

No. 04-50323

D.C. No. CR-03-00908-JSL

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
J. Spencer Letts, District Judge, Presiding

Submitted December 5, 2005^{**}

Before: GOODWIN, W. FLETCHER and FISHER, Circuit Judges.

John David Huntley appeals the 57-month sentence imposed following his guilty plea conviction for being a felon in possession of a firearm and ammunition

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

in violation of 18 U.S.C. § 922(g)(1). We have jurisdiction pursuant to 18 U.S.C. § 1291.

Because appellant was sentenced under the then-mandatory Sentencing Guidelines, and we cannot reliably determine from the record whether the sentence imposed would have been materially different had the district court known that the Guidelines were advisory, we remand to the sentencing court to proceed pursuant to *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc). See *United States v. Moreno-Hernandez*, 419 F.3d 906, 916 (9th Cir. 2005).

REMANDED.